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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT SEATTLE

8                   LEO DURDEN,

9                   Plaintiff,

10                  v.

11                  C17-651 TSZ

12                  GEICO ADVANTAGE INSURANCE  
13                  COMPANY,

14                  MINUTE ORDER

15                  Defendant.

16                  The following Minute Order is made by direction of the Court, the Honorable  
17                  Thomas S. Zilly, United States District Judge:

18                  (1) Defendant's motion for reconsideration, docket no. 36, is DENIED.  
19                  Defendant contends that its basis for denying underinsured motorist ("UIM") benefits  
20                  was "reasonable" and that, as a result, it cannot be held liable for insurance bad faith or  
21                  for violation of the Insurance Fair Conduct Act ("IFCA") or Washington's Consumer  
22                  Protection Act. Whether defendant's reason for denying UIM benefits was "reasonable"  
23                  in this case involves genuine disputes of material fact and cannot be decided as a matter  
                        of law. The case on which defendant primarily relies, *Anderson v. State Farm Mut. Ins. Co.*, 101 Wn. App. 323, 2 P.3d 1029 (2000), predates the enactment of IFCA in 2007,  
                        and is distinguishable. In *Anderson*, the insured argued that the insurer's investigation  
                        (as opposed to its denial of benefits) was inadequate because the insurer failed to perform  
                        certain tests and did not interview particular witnesses, but the record did not indicate  
                        what such tests and interviews would have revealed. *Id.* at 334. Moreover, in *Anderson*,  
                        the plaintiff claimed that the insurer's insufficient investigation caused delay in the  
                        payment of benefits, but the appellate court found plaintiff's allegation that the insurer  
                        would have paid sooner if it had performed a more thorough investigation to be mere  
                        speculation. *Id.* In contrast, in this case, an eye-witness has repeatedly corroborated

1 plaintiff's theory that he was involved in a hit-and-run incident for which UIM benefits  
2 should have been paid, and plaintiff in this matter is not complaining about a delay in  
payment, but rather a denial of benefits.

3 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of  
record.

4 Dated this 11th day of April, 2018.

5  
6 William M. McCool

Clerk

7  
8 s/Karen Dews

Deputy Clerk